Ohio Northern Bankruptcy v5.1.1

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OpenAP, APLDIST, APPEAL, WdRef

U.S. Bankruptcy Court Northern District of Ohio (Akron) Adversary Proceeding #: 20-05023-amk

Assigned to: JUDGE ALAN M. KOSCHIK Date Filed: 05/05/20

Lead BK Case: 19-52957

Lead BK Title: Weather King Heating & Air, Inc.

Lead BK Chapter: 11

Demand:

Nature[s] of Suit: 91 Declaratory Judgement Rule 7001(9)

72 Injunctive Relief (Other) Rule 7001 (7)

Plaintiff

Weather King Heating & Air, Inc.

51 Meadow Lane Suite E Northfield, OH 44067 Tax ID / EIN: 34-1923413 represented by **Steven Heimberger**

Roderick Linton Belfance LLP

50 South Main Street

Suite 1000

Akron, OH 44308 330-434-3000 Fax: 330-434-9220

Email: sheimberger@rlbllp.com

V.

Defendant

U.S. Small Business Administration

409 3rd Street SW Washington, DC 20416 represented by Suzana Krstevski Koch

United States Attorney's Office, NDOH

801 W. Superior Avenue

Suite 400

Cleveland, OH 44113

216-622-3748

Fax: 216-522-4982

Email: suzana.koch@usdoj.gov

Marc Sacks

U S Department of Justice 1100 L Street NW Washington, DC 20005

202-307-1104

Fax: 202-514-9163

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Email: marcus.s.sacks@usdoj.gov

Defendant

Jovita Corranza

US Small Business Administration 409 3rd Street SW Washington, DC 20416 represented by Suzana Krstevski Koch

(See above for address)

Marc Sacks

(See above for address)

Filing Date	#	Docket Text
05/05/2020	1/(21 pgs)	Adversary case 20-05023. Complaint by Weather King Heating & Air, Inc. against U.S. Small Business Administration, Jovita Corranza. Fee Amount \$350 Nature of Suit:91 (Declaratory Judgement Rule 7001(9)),72 (Injunctive Relief (Other) Rule 7001 (7)) (Heimberger, Steven aty) (Entered: 05/05/2020)
05/05/2020		Receipt of Complaint(20-05023-amk) [cmp,cmp] (350.00) Filing Fee. Receipt number 42107732. Fee amount 350.00. (re:Doc# 1) (U.S. Treasury) (Entered: 05/05/2020)
05/06/2020		Initial Pretrial (RE: related document(s)1 Complaint filed by Plaintiff Weather King Heating & Air, Inc.) Pre-Trial Conference set for 6/17/2020 at 01:30 PM at 260 Fed Bldg Akron. (mknot) (Entered: 05/06/2020)
05/06/2020	2	***See #3 for the notice of the Summons issued on Plaintiff for service on Defendant(s) Jovita Corranza Answer due 6/10/2020; U.S. Small Business Administration Answer due 6/10/2020. This Court has adopted a paperless procedure for issuing the summons in an adversary proceeding. The attached summons has been sealed, processed, and docketed by the Clerk. Electronic filers will only receive electronic email notice of this docket entry. No paper copy of the summons will be mailed; it must be printed from CM/ECF. Pursuant to Bankruptcy Rule 7004(a) and F.R.C.P. 4, it is the responsibility of the plaintiff or plaintiff's counsel to promptly serve the summons, a copy of the complaint, and, if applicable, a copy of any pre-

		trial or adversary case management order on defendant(s). To be timely, the summons and a copy of the complaint must be served within fourteen (14) days of issuance per Bankruptcy Rule 7004(e). Service of the summons is prescribed by Bankruptcy Rule 7004 and F.R.C.P. 4. If a summons is not timely served, an "alias" summons must be requested from the Clerk. Certification or proof of service by plaintiff or plaintiff's counsel is made by completing the Certificate of Service portion of the original summons. Attorneys should docket the summons, once served, using the Summons Service Executed event within CM/ECF. (RE: related document(s) Hearing Set) Pre-Trial Conference set for 6/17/2020 at 01:30 PM at 260 Fed Bldg Akron. (mknot) Modified on 5/6/2020 (mknot). (Entered: 05/06/2020)
05/06/2020	3 (2 pgs)	Summons issued on Plaintiff for service on Defendant(s) Jovita Corranza Answer due 6/10/2020; U.S. Small Business Administration Answer due 6/10/2020. This Court has adopted a paperless procedure for issuing the summons in an adversary proceeding. The attached summons has been sealed, processed, and docketed by the Clerk. Electronic filers will only receive electronic email notice of this docket entry. No paper copy of the summons will be mailed; it must be printed from CM/ECF.
		Pursuant to Bankruptcy Rule 7004(a) and F.R.C.P. 4, it is the responsibility of the plaintiff or plaintiff's counsel to promptly serve the summons, a copy of the complaint, and, if applicable, a copy of any pretrial or adversary case management order on defendant(s). To be timely, the summons and a copy of the complaint must be served within seven (7) days of issuance per Bankruptcy Rule 7004(e). Service of the summons is prescribed by Bankruptcy Rule 7004 and F.R.C.P. 4. If a summons is not timely served, an "alias" summons must be requested from the Clerk.
		Certification or proof of service by plaintiff or plaintiff's counsel is made by completing the Certificate of Service portion of the original summons. Attorneys should docket the summons,

		once served, using the Summons Service Executed event within CM/ECF. (RE: related document(s) 2 Summons Issued (Agency or officer of the United States)) Pre-Trial Conference set for 6/17/2020 at 01:30 PM at 260 Fed Bldg Akron. (mknot) (Entered: 05/06/2020)
05/06/2020	4 (3 pgs)	Order Relative to Pre-Trial Signed on 5/6/2020 (RE: related document(s)1 Complaint). Hearing scheduled for 6/17/2020 at 01:30 PM at 260 Fed Bldg Akron. (mknot crt) (Entered: 05/06/2020)
05/06/2020	5 (3 pgs)	Summons Service Executed on Jovita Corranza 5/6/2020; U.S. Small Business Administration 5/6/2020 (Heimberger, Steven aty) (Entered: 05/06/2020)
05/07/2020	6 (23 pgs)	Motion for Temporary Restraining Order <i>and/or Preliminary Injunction</i> . Filed by Weather King Heating & Air, Inc. (Heimberger, Steven aty) (Entered: 05/07/2020)
05/07/2020	7/(7 pgs)	Affidavit Declaration of Rajbinder S. Rai In Support of Motion of Debtor for Temporary Restraining Order and/or Preliminary Injunction Filed by Weather King Heating & Air, Inc. (related document(s)6). (Heimberger, Steven aty) (Entered: 05/07/2020)
05/07/2020	8/(67 pgs)	Affidavit Declaration of Steven J. Heimberger In Support of Motion of Debtor for Temporary Restraining Order and/or Preliminary Injunction Filed by Weather King Heating & Air, Inc. (related document(s)6). (Heimberger, Steven aty) (Entered: 05/07/2020)
05/07/2020	9 (2 pgs)	Motion for Leave To File Motion In Excess of Page Limitation Filed by Weather King Heating & Air, Inc. (Heimberger, Steven aty) (Entered: 05/07/2020)
05/07/2020		Hearing Scheduled, (RE: related document(s)6 Temporary Restraining Order, Motion for) Hearing scheduled for 5/12/2020 at 10:00 AM at 260 Fed Bldg Akron. (bhemi) (Entered: 05/07/2020)
05/08/2020		DIAL IN INFORMATION FOR THE TELEPHONIC HEARING ON 5/12/2020 AT

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		10:00:(866) 4345269 Access Code: 2469740# (RE: related document(s)6 Temporary Restraining Order, Motion for filed by Plaintiff Weather King Heating & Air, Inc.) (mknot) (Entered: 05/08/2020)
05/08/2020	10 (4 pgs)	Notice of Order on Pre-Trial w/ BNC Certificate of Mailing (RE: related document(s)4) Notice Date 05/08/2020. (Admin.) (Entered: 05/09/2020)
05/10/2020	11 (3 pgs)	Order Granting Motion of Debtor for Leave to File Motion in Excess of Page Limitation (Related Doc # 9) Signed on 5/10/2020. (bhemi crt) (Entered: 05/11/2020)
05/12/2020	12 (4 pgs)	Notice of Appearance and Request for Notice <i>of Marc S. Sacks</i> Filed by Jovita Corranza, U.S. Small Business Administration. (Sacks, Marc aty) (Entered: 05/12/2020)
05/12/2020	13 (271 pgs; 3 docs)	Memorandum in Opposition to <i>Motion of Debtor for Temporary Restraining Order</i> Filed by Jovita Corranza, U.S. Small Business Administration (related document(s)6). (Attachments: # 1 Exhibit 1-5 # 2 Exhibit 6-8) (Sacks, Marc aty) (Entered: 05/12/2020)
05/12/2020	14 (3 pgs)	Motion for Leave to File(related documents 13 Memorandum in Opposition to) Brief in Excess of Page Limit Pursuant To Local Bankruptcy Rule 9013-2 Filed by Jovita Corranza, U.S. Small Business Administration (RE: related document(s) 13 Memorandum in Opposition to) (Sacks, Marc aty) (Entered: 05/12/2020)
05/12/2020	15 (271 pgs; 3 docs)	Memorandum in Opposition to <i>Motion of Debtor for Temporary Restraining Order CORRECTION OF DOCKET # 13</i> Filed by Jovita Corranza, U.S. Small Business Administration (related document (s)6). (Attachments: # 1 Exhibit 1-5 # 2 Exhibit 6-8) (Sacks, Marc aty) (Entered: 05/12/2020)
05/12/2020		Telephonic Hearing Scheduled, (RE: related document(s)15 Memorandum in Opposition to) Hearing scheduled for 5/12/2020 at 10:00 AM at 260 Fed Bldg Akron. (mknot) (Entered: 05/12/2020)
05/12/2020		

	16 (2 pgs)	Notice of Appearance and Request for Notice by Suzana Krstevski Koch Filed by Jovita Corranza, U.S. Small Business Administration. (Koch, Suzana aty) (Entered: 05/12/2020)
05/12/2020	17 (2 pgs)	Notice of Appearance and Request for Notice <i>by Todd A. Mazzola</i> Filed by Weather King Heating & Air, Inc (Heimberger, Steven aty) (Entered: 05/12/2020)
05/12/2020		Hearing held, TRO granted to 5/20/20 (11:59 pm) and further hearing scheduled (related document(s): 6 Temporary Restraining Order, Motion for filed by Weather King Heating & Air, Inc.) Hearing scheduled for 05/18/2020 at 02:00 PM at 260 Fed Bldg Akron. (mknot) (Entered: 05/12/2020)
05/13/2020	18 (7 pgs)	Temporary Restraining Order Signed on 5/13/2020 (RE: related document(s)6 Temporary Restraining Order, Motion for). (bhemi crt) (Entered: 05/13/2020)
05/13/2020	19 (4 pgs)	Notice of Order on Generic Order w/ BNC Certificate of Mailing (RE: related document(s)11) Notice Date 05/13/2020. (Admin.) (Entered: 05/14/2020)
05/14/2020	20 (1 pg)	Request for Transcript by Suzana Koch for 05/12/2020 Hearing. Filed by Defendant U.S. Small Business Administration. (Koch, Suzana aty) Modified on 5/27/2020 (bhemi). **Transcript request not completed by Susan Trischan. Corrected request is document #31 prepared by Legal Electronic Recording.** (Entered: 05/14/2020)
05/15/2020	21 (51 pgs; 6 docs)	Motion Requesting the Court to Take Judicial Notice of Adjudicative Facts for May 18, 2020 Preliminary Injunction Filed by Weather King Heating & Air, Inc. (Attachments: # 1 Exhibit A - PPP First Interim Final Rule (April 15, 2020) # 2 Exhibit B - PPP Second Interim Final Rule (April 15, 2020) # 3 Ex. C - Third Interim Final Rule (April 20, 2020) # 4 Exhibit D - PPP Fourth Interim Final Rule (April 28, 2020) # 5 Exhibit E - Paycheck Protection Program FAQs) (Heimberger, Steven aty) (Entered: 05/15/2020)

05/15/2020	22 (8 pgs)	Notice of Order (PDF) w/ BNC Certificate of Mailing (RE: related document(s)18) Notice Date 05/15/2020. (Admin.) (Entered: 05/16/2020)
05/16/2020	23 (2 pgs)	Notice of Request for Transcript w/ BNC Certificate of Mailing (RE: related document(s)20) Notice Date 05/16/2020. (Admin.) (Entered: 05/17/2020)
05/17/2020	24 (18 pgs)	Notice of Supplemental Authority to be Relied Upon at May 18, 2020 Preliminary Injunction Hearing. Filed by Weather King Heating & Air, Inc. (RE: related document(s) Motion for Temporary Restraining Order and/or Preliminary Injunction. Filed by Weather King Heating & Air, Inc. (Heimberger, Steven aty) filed by Plaintiff Weather King Heating & Air, Inc.). (Heimberger, Steven aty) (Entered: 05/17/2020)
05/18/2020		Telephonic Hearing Scheduled, (RE: related document(s)21 Generic Motion filed by Plaintiff Weather King Heating & Air, Inc., 24 Notice (PDF) filed by Plaintiff Weather King Heating & Air, Inc.) Hearing scheduled for 5/18/2020 at 02:00 PM (mknot) (Entered: 05/18/2020)
05/18/2020		Hearing held and telephonic oral ruling scheduled (related document(s): 6 Temporary Restraining Order, Motion for filed by Weather King Heating & Air, Inc., 15 Memorandum in Opposition to filed by Jovita Corranza, U.S. Small Business Administration, 21 Generic Motion filed by Weather King Heating & Air, Inc., 24 Notice (PDF) filed by Weather King Heating & Air, Inc.) Telephonic Hearing scheduled for 05/21/2020 at 03:00 PM .DIAL IN INFORMATION :Telephone: (866) 434?5269 Access Code: 2469740# (mknot) (Entered: 05/19/2020)
05/20/2020	25 (8 pgs)	Amended Temporary Restraining Order Signed on 5/20/2020 (RE: related document(s)18 Order (PDF)). (bhemi crt) (Entered: 05/20/2020)
05/21/2020		Hearing Held preliminary injunction granted(related document(s): 6 Temporary Restraining Order, Motion for filed by Weather King Heating & Air, Inc.) (mknot) (Entered: 05/21/2020)

05/21/2020		Oral motion to stay preliminary injunction pending appeal DENIED (related document(s): 6 Temporary Restraining Order, Motion for filed by Weather King Heating & Air, Inc.) (mknot) (Entered: 05/21/2020)
05/22/2020	26 (5 pgs)	Preliminary Injunction Against the U.S. Small Business Administration Signed on 5/22/2020 (RE: related document(s)6 Temporary Restraining Order, Motion for). (bhemi crt) (Entered: 05/22/2020)
05/22/2020	27 (9 pgs)	Notice of Order on Amended Order w/ BNC Certificate of Mailing (RE: related document(s)25) Notice Date 05/22/2020. (Admin.) (Entered: 05/23/2020)
05/24/2020	28 (6 pgs)	Notice of Order (PDF) w/ BNC Certificate of Mailing (RE: related document(s)26) Notice Date 05/24/2020. (Admin.) (Entered: 05/25/2020)
05/26/2020	2 <u>9</u> (1 pg)	Request for Transcript by Suzana Koch for 05/12/2020 Hearing. Filed by U.S. Small Business Administration. (Koch, Suzana aty) Modified on 5/27/2020 (bhemi). **Transcript request not completed by Donnalee Cotone. Corrected request is document #31 prepared by Legal Electronic Recording.** (Entered: 05/26/2020)
05/26/2020	30 (1 pg)	Request for Transcript by Suzana Koch for 05/18/2020 Hearing. Filed by U.S. Small Business Administration. (Koch, Suzana aty) Modified on 5/27/2020 (bhemi). **Transcript request not completed by Donnalee Cotone. Transcript request #31 has now been withdrawn for hearing 5/18/2020.** (Entered: 05/26/2020)
05/26/2020	31 (1 pg)	Request for Transcript by Suzana Koch for 05/12/2020 Hearing. Filed by U.S. Small Business Administration. (Koch, Suzana aty) (Entered: 05/26/2020)
05/26/2020	32 (1 pg)	Request for Transcript by Suzana Koch for 05/18/2020 Hearing. Filed by U.S. Small Business Administration. (Koch, Suzana aty) (Entered: 05/26/2020)
05/27/2020	33 (1 pg)	Request for Transcript by Suzana Koch for 05/21/2020 Hearing. Filed by U.S. Small Business

		Administration. (Koch, Suzana aty) (Entered: 05/27/2020)
05/27/2020	34 (2 pgs)	Notice of Withdrawal of Transcript Request Filed by U.S. Small Business Administration (RE: related document(s)32 Request for Transcript by Suzana Koch for 05/18/2020 Hearing. Filed by U.S. Small Business Administration. (Koch, Suzana aty) filed by Defendant U.S. Small Business Administration). (Koch, Suzana aty) (Entered: 05/27/2020)
05/28/2020	35 (2 pgs)	Notice of Request for Transcript w/ BNC Certificate of Mailing (RE: related document(s)29) Notice Date 05/28/2020. (Admin.) (Entered: 05/29/2020)
05/28/2020	36 (2 pgs)	Notice of Request for Transcript w/ BNC Certificate of Mailing (RE: related document(s) <u>30</u>) Notice Date 05/28/2020. (Admin.) (Entered: 05/29/2020)
05/29/2020	37 (2 pgs)	Notice of Request for Transcript w/ BNC Certificate of Mailing (RE: related document(s)31) Notice Date 05/29/2020. (Admin.) (Entered: 05/30/2020)
05/29/2020	38 (2 pgs)	Notice of Request for Transcript w/ BNC Certificate of Mailing (RE: related document(s)32) Notice Date 05/29/2020. (Admin.) (Entered: 05/30/2020)
05/29/2020	39 (2 pgs)	Notice of Request for Transcript w/ BNC Certificate of Mailing (RE: related document(s) <u>33</u>) Notice Date 05/29/2020. (Admin.) (Entered: 05/30/2020)
06/01/2020	<u>40</u>	Transcript of Hearing Held 05/12/2020 RE: Motion for Temporary Restraining Order. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING, TRANSCRIPT RELEASE DATE IS 8/31/2020. Until that time the transcript may be viewed at the Bankruptcy Court or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Legal Electronic Recording, Telephone number 216-881-8000. Notice of Intent to Request Redaction Deadline

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		Due By 6/8/2020. Redaction Request Due By 6/22/2020. Redacted Transcript Submission Due By 7/2/2020. Transcript access will be restricted through 8/31/2020. (bhemi) (Entered: 06/01/2020)
06/01/2020	41	Transcript of Hearing Held 05/21/2020 RE: Court's Oral Ruling on Motion for Temporary Restraining Order. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING, TRANSCRIPT RELEASE DATE IS 8/31/2020. Until that time the transcript may be viewed at the Bankruptcy Court or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Legal Electronic Recording, Telephone number 216-881-8000. Notice of Intent to Request Redaction Deadline Due By 6/8/2020. Redacted Transcript Submission Due By 7/2/2020. Transcript access will be restricted through 8/31/2020. (bhemi) (Entered: 06/01/2020)
06/04/2020	42 (12 pgs)	Motion for Withdrawal of Reference (Mandatory). Fee Amount \$181 Filed by Jovita Corranza, U.S. Small Business Administration (Sacks, Marc aty) (Entered: 06/04/2020)
06/04/2020	43 (4 pgs)	Notice of Appeal and Statement of Election to District Court. Fee Amount \$298 Filed by Jovita Corranza, U.S. Small Business Administration (RE: related document(s)26 Order (PDF)). (Sacks, Marc aty) (Entered: 06/04/2020)
06/05/2020		Corrective Entry re. Motion for Withdrawal of Reference(20-05023-amk) [motion,mwdref] (181.00) Filing Fee. Receipt number n/a United States is filer, Fee amount 00.00. (re:Doc42) (mrand) Modified on 6/5/2020 (mrand). (Entered: 06/05/2020)
06/05/2020		Corrective Entry re. Notice of Appeal and Statement of Election(20-05023-amk) [appeal,ntcaplel] (298.00) Filing Fee. Receipt number n/a United States is filer. Fee amount 0.00. (re:Doc43) (mrand) Modified on 6/5/2020 (mrand). (Entered: 06/05/2020)
06/05/2020		

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	44 (1 pg)	Transmission of Notice of Appeal to District Court. (RE: related document(s) <u>26</u> Order (PDF), <u>43</u> Notice of Appeal and Statement of Election). (bhemi crt) (Entered: 06/05/2020)
06/08/2020	45	Acknowledgment from USDC regarding Notice of Appeal. USDC Case Number: 5:20cv1241 USDC Judge Name: Judge John R Adams (RE: related document(s)26 Order (PDF), 43 Notice of Appeal and Statement of Election). (bhemi crt) (Entered: 06/08/2020)
06/12/2020		The pretrial set for 6/17/2020 will be rescheduled, if necessary, after the motion to withdraw has been resolved by the District Court (related document(s): 1 Complaint filed by Weather King Heating & Air, Inc.) (mknot) (Entered: 06/12/2020)
06/18/2020	46 (5 pgs)	Appellant Designation of Contents For Inclusion in Record On Appeal, Statement of Issues on Appeal, Filed by Jovita Corranza, U.S. Small Business Administration (RE: related document(s)43 Notice of Appeal and Statement of Election). Appellee designation due by 07/2/2020. Transmission of Designation Due by 07/20/2020. (Sacks, Marc aty) (Entered: 06/18/2020)
06/19/2020	47 (1 pg)	Transmittal to U.S. District Court of Motion to Withdraw Reference (RE: related document(s)42 Motion for Withdrawal of Reference filed by Defendant U.S. Small Business Administration, Defendant Jovita Corranza) (bhemi) (Entered: 06/19/2020)

PACER Service Center				
Transaction Receipt				
	06/19/2020 15:15:04			
PACER Login:	TerriMasich:4452281:0	Client Code:		
Description:	Docket Report	Search Criteria:	20-05023-amk Fil or Ent: filed Doc From: 0 Doc To: 99999999	

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Dillable			Format: html Page counts for documents: included
Billable Pages:	6	Cost:	0.60